

Assembly Bill No. 841

Passed the Assembly June 1, 2011

Chief Clerk of the Assembly

Passed the Senate August 29, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 285 to the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 841, Buchanan. Telecommunications: universal service: Voice over Internet Protocol (VoIP).

(1) Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including telephone corporations.

Existing law establishes 6 funds in the State Treasury through which the state's universal service programs are funded. Under existing law, moneys in the funds may only be expended for specified purposes and upon appropriation in the annual Budget Act or upon supplemental appropriation.

This bill would require the commission to require interconnected Voice over Internet Protocol (VoIP) service providers to collect and remit surcharges on their California intrastate revenues in support of the universal service funds.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 285 is added to the Public Utilities Code, to read:

285. (a) As used in this section, "interconnected Voice over Internet Protocol (VoIP) service" has the same meaning as in Section 9.3 of Title 47 of the Code of Federal Regulations.

(b) The Legislature finds and declares that the sole purpose of this section is to require the commission to impose the surcharges pursuant to this section to ensure that end-use customers of interconnected VoIP service providers contribute to the funds enumerated in this section, and, therefore, this section does not indicate the intent of the Legislature with respect to any other purpose.

(c) The commission shall require interconnected VoIP service providers to collect and remit surcharges on their California intrastate revenues in support of the following public purpose program funds:

(1) California High-Cost Fund-A Administrative Committee Fund under Section 275.

(2) California High-Cost Fund-B Administrative Committee Fund under Section 276.

(3) Universal Lifeline Telephone Service Trust Administrative Committee Fund under Section 277.

(4) Deaf and Disabled Telecommunications Program Administrative Committee Fund under Section 278.

(5) California Teleconnect Fund Administrative Committee Fund under Section 280.

(6) California Advanced Services Fund under Section 281.

(d) The authority to impose a surcharge pursuant to this section applies only to a surcharge imposed on end-use customers for interconnected VoIP service provided to an end-use customer's place of primary use that is located within California. As used in this subdivision, "place of primary use" means the street address where the end-use customer's use of interconnected VoIP service primarily occurs, or a reasonable proxy as determined by the interconnected VoIP service provider, such as the customer's registered location for 911 purposes.

(e) (1) For the purposes of determining what revenues are subject to a surcharge imposed pursuant to this section, an interconnected VoIP service provider may use any of the following methodologies to identify intrastate revenues:

(A) The inverse of the interstate safe harbor percentage established by the Federal Communications Commission for interconnected VoIP service for federal universal service contribution purposes, as these percentages may be revised from time to time.

(B) A traffic study specific to the interconnected VoIP service provider allocating revenues between the federal and state jurisdictions.

(C) Another means of accurately apportioning interconnected VoIP service between federal and state jurisdictions.

(2) The methodology chosen pursuant to paragraph (1) shall be consistent with the revenue allocation methodology the provider uses to determine its federal universal service contribution obligations.

(3) It is the intent of the Legislature that a traffic study described in subparagraph (B) of paragraph (1) is excluded from public inspection pursuant to Public Utilities Commission General Order 66-C, because the disclosure of these studies would place the provider at an unfair business disadvantage.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the Public Utilities Commission has the necessary statutory direction to fund the state's universal service programs at the earliest possible time, it is necessary for this act to take effect immediately.

Approved _____, 2011

Governor